

SEP 08 2006

REMARKS

The examiner has objected to the specification as including a hyperlink to a computer. This has been removed and, thus, this objection is obviated.

The examiner has rejected claims 1-14 and 16 as being unpatentable under 35 U.S.C. § 112, second paragraph, because of the use of the word "allowing" in claim 1. While this rejection is not believed to be proper, nevertheless, this word has been eliminated; thus, the claims positively claim a method for *causing* a certain effect. It is believed that this obviates this rejection.

The examiner has also rejected claims 1-16 under 35 U.S.C. § 101 as being non-statutory because a program is defined instead of steps for performing a method. Again, the undersigned does not agree with this, but to avoid any dispute, these claims have been amended to call for a *method* with specific steps. Thus, this rejection is believed to be obviated also.

The examiner has rejected claims 1-18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 7,050,959 to Pollard II et al, hereinafter Pollard et al. This rejection is not thought to be well taken, especially in view of the amendments to claims 1, 15 and 17, and the rewriting of claim 7 as new claim 19 upon which all the claims depend, directly or indirectly. New claim 20 has been added which is similar to claim 19 and, for the same reasons, is allowable.

With respect to claims 1, 15 and 17, these claims, as amended, require that the data transfer rates be based *solely* on the read attributes of the memory module. It is submitted that Pollard et al do not teach or suggest this. Indeed, Pollard et al at column 3, lines 40-43, states:

“BIOS 110 utilizes a combination of thermal environment characteristics and memory module design characteristics to determine a maximum sustainable power level for an integrated circuit, such as memory module 140.”

Moreover, Pollard et al use these additional values to calculate the maximum sustainable power level, see column 3, line 55, and the allowable band width (column 4, line 43). Applicants, on the other hand, do not require any calculation, but rely *solely* on the attributes of the memory module. This is not taught nor suggested by Pollard et al and, hence, claims 1, 15 and 17 are clearly allowable. Claims 2-6 and 8-18 are dependent, directly or indirectly, on claim 1 and, for the same reasons, are believed to be allowable.

Dependent claim 7 has been rewritten as new independent claim 19 having the same limitations as claim 1 and, therefore, is believed to be allowable. (Claim 7 was rewritten in independent form since claim 1 as amended requires only attributes of the memory module stored be used, and claim 19 requires only attributes and the position of the memory cards be used. As pointed out above, this is not taught nor suggested by Pollard et al. Thus, claim 7 needed to be rewritten in independent form and new claim 20 added.

In view of the above, it is believed that each of the claims now in the application is distinguishable, one from the other, and over the prior art.

Therefore, reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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